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Case No.:	ER-2019-0374

DIRECT TESTIMONY

OF

LENA M. MANTLE

Submitted on Behalf of the Office of the Public Counsel

EMPIRE DISTRICT ELECTRIC COMPANY

CASE NO. ER-2019-0374

** **

Denotes Highly Confidential and Confidential Information that has been Redacted

January 15, 2020

NON –PROPRIETARY

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of The Empire District Electric Company's Request for Authority to File Tariffs Increasing Rates for Electric Service Provided to Customers in its Missouri Service Area	)))))	Case No. ER-2019-0374

AFFIDAVIT OF LENA M. MANTLE

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Lena M. Mantle, of lawful age and being first duly sworn, deposes and states:

1. My name is Lena M. Mantle. I am a Senior Analyst for the Office of the Public Counsel.

2. Attached hereto and made a part hereof for all purposes is my direct testimony.

3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.

Lena M. Mantle
Lena M. Mantle
Senior Analyst

Subscribed and sworn to me this 15th day of January 2020.

NOTARY PUBLIC NOTARY SEAL STATE OF MISSOURI
JERENE A. BUCKMAN
My Commission Expires
August 23, 2021
Cole County
Commission #13754037

Jerene A. Buckman
Jerene A. Buckman
Notary Public

My Commission expires August 23, 2021.

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OF

LENA M. MANTLE

THE EMPIRE ELECTRIC COMPANY

FILE NO. ER-2019-0374

INTRODUCTION

Q. What is your name and business address?

A. My name is Lena M. Mantle and my business address is P.O. Box 2230, Jefferson City, Missouri 65102.

Q. By whom are you employed and in what capacity?

A. I am employed by the Missouri Office of the Public Counsel ("OPC") as a Senior Analyst.

Q. On whose behalf are you testifying?

A. I am testifying on behalf of the OPC.

Q. To what are you testifying?

A. I am testifying on three different issues. First, I testify on why the Commission should not approve a weather normalization rider for The Empire District Electric Company ("Empire"). Second, I provide testimony regarding the modifications I recommend the Commission make to Empire's FAC. I conclude a discussion of the implications on the fuel adjustment clause ("FAC") and the fuel costs of the retirement of the Asbury power plant ("Asbury").

Q. What are your experience, education and other qualifications, particularly on the topics to which you are testifying?

A. I was employed by the OPC in my current position as Senior Analyst in August 2014. In this position, I have provided expert testimony in electric and water cases before the Commission on behalf of the OPC. I am a Registered Professional Engineer in the State of Missouri.

Prior to being employed by the OPC, I worked for the Staff of the Missouri Public Service Commission ("Staff") from August 1983 until I retired as Manager of the Energy Unit in December 2012. During my employment at the Missouri Public Service Commission ("Commission"), I worked as an Economist, Engineer, Engineering Supervisor and Manager of the Energy Unit. While on the Commission Staff, I participated in the development of a leading-edge methodology for weather normalizing hourly class energy for rate design cases. I took the lead in developing personal computer programming of this methodology and applied this methodology to weather-normalize electric usage in numerous electric rate cases. After the Missouri Legislature passed Section 366.266, RSMo in 2005, enabling the electric utilities to request a fuel adjustment clause ("FAC"), I was instrumental in the development and application of the Commission's FAC rules and the FAC's of the electric utilities in Missouri.

Attached as Schedule LMM-D-1 is a brief summary of my experience with OPC and Staff and a list of the Commission cases in which I filed testimony, Commission rulemakings in which I participated, and Commission reports in rate cases to which I contributed as Staff. Attached as Schedule LMM-D-2 is the *Electric Utility Fuel Adjustment Clause in Missouri: History and Application Whitepaper* that I wrote to provide background and a description on various aspects of the FAC in Missouri.

Q. What recommendations do you make in this testimony?

A. I make the following recommendations:

1) The Commission should deny Empire's request for a weather normalization rider;

2) The incentive mechanism of Empire's FAC be modified to an 85/15 sharing mechanism where customer exposure is reduced to 85 percent of FAC cost increases and decreases;
3) The transmission costs included in Empire's FAC remain as they are currently, and any transmission revenues associated with Southwest Power Pool ("SPP") schedules and Mid-Continent Independent System Operator ("MISO") costs currently included in the FAC also be included. The percentage of transmission costs and revenues included be modified to match the circumstances that will be impacting the transmission costs and revenues when rates from this case become effective;
4) The FAC language that has been in effect and that Empire has proposed in this case regarding the costs and revenues from purchased power agreements ("PPAs") be followed for Empire's PPA with the Missouri Joint Municipal Electric Utility Commission ("MJMEUC"), and the Commission require, as a part of Empire's monthly FAC filing, a detailed listing of the costs incurred due to the contracts and the revenues that Empire receives;
5) With respect to Empire's wind projects, the Commission order Empire to:
    a. Not pass any direct or indirect costs connected with the wind projects through its FAC until a Commission order expressly allows it;
    b. Develop policies and procedures to prevent wind project costs from being included in the FAC until a Commission order expressly allows it;
    c. Submit those policies and detailed documentation of the procedures it has developed to the Commission Staff and OPC by September 1, 2020; and
    d. Include language in the FAC tariff sheet explicitly stating that no costs associated with the wind projects shall pass through the FAC; and
6) With respect to the retirement of Asbury:

a. Empire's FAC costs[1] for Asbury should not be included when setting the base rate in Empire's FAC nor should they be included in Empire's revenue requirement; or

b. Alternatively, if Empire's rates are set based on Asbury being operational, the tracking of costs for an accounting authority order for the retirement of Asbury should not include any of the costs of or missed revenues from Asbury that Empire does not recover through its FAC.

Weather Normalization Adjustment Rider

Q. What is your recommendation to the Commission regarding Empire's request for a weather normalization rider to adjust the revenues of its residential and small general service customers?

A. I recommend the Commission not approve a weather normalization rider for Empire.

Q. Would you explain the rationale for your recommendation?

A. Senate Bill 564, which the Missouri Legislature passed in 2018, changed the language of Section 386.266.3 RSMo, which added a provision to allow electric utilities the option of requesting a rate adjustment mechanism to reflect the effects of weather and conservation. One of the customer protections of this legislation is the requirement of the Commission to approve, modify, or reject this mechanism.[2] This means that, unlike other rate adjustment mechanisms authorized by state statute, this type of rate adjustment mechanism is a privilege not a right. The statute requires the Commission to consider all relevant factors which may affect the costs or overall charges when determining whether to approve such a mechanism.

[1] In this testimony, FAC costs refers to the fuel, purchased power and transmission costs net of the off-system sales, transmission and other revenues included in the FAC as ordered by the Commission.
[2] Section 386.266.5 RSMo.

The most important factor to consider when determining the need for a weather normalization rider is whether Empire needs such a mechanism to provide it an opportunity to earn a fair return on equity. Recent history shows that Empire does not need the rider to earn its authorized return on equity.

Q. What evidence do you have that Empire has been able to earn a fair return on equity without this rider?

A. Yes. One of the requirements of electric utilities with a fuel adjustment clause is that they have to submit surveillance reports to the Commission quarterly. One of the requirements of this report is for the utility to provide its actual earned return on equity for the previous twelve months. The graph below shows the twelve-month return on equity by quarter as submitted to the Commission by Empire for the twelve months ending March 2018 (“1Q 2018”) through the twelve months ending September 2019 (“3Q 2019”).

**

**

This graph clearly shows that Empire has been earning above its authorized return on equity of 9.75 percent[3] earning for a time more than ** ** above the authorized return This graph also clearly shows that Empire does not need a weather normalization rider to enable it to earn its authorized return on equity.

Q. Do you have any other evidence that Empire has been earning its authorized return on equity without a weather normalization mechanism?

A. Yes. Empire provides the following rationale for why it was filing this general rate increase case in its *Notice of Intended Case Filing* in this case:

> Empire's last request for an overall increase in rates for electric service was docketed as Case No. ER-2016-0023, and the Commission order authorizing the continuation of a FAC for Empire was issued in said case on August 10, 2016, effective September 9, 2016. Empire is thus required to file a general rate case with the effective date of new rates to be no later than four years after September 9, 2016.

Empire did not file this case because it needed a rate increase to have an opportunity to earn its allowed return on equity. It filed this rate case because statute requires an electric utility with a FAC to file at least every four years. Without that provision in statute, it is likely that Empire would not have come in for a rate case for another year when it requests the costs of its wind projects be included in its customers' rates.

Q. Why do you think that provision was included in the statute?

A. My opinion is that this important customer protection was included in the statute so at times of declining non-fuel costs the rates would be reset at least every four

[3] The last Commission ordered return on equity for Empire was 9.75 percent in case ER-2008-0093. Empire's quarterly surveillance reports use this as its authorized rate with a note that subsequent rate cases have been black box settlements that do not identify an authorized return on equity. In subsequent rate cases, Stipulation and Agreements have indicated the return on equity was a range of 9.5 to 9.9 percent.

years to pass the benefits of the declining costs to the customers. In other words, it prevents the electric utility from over-earning for more than four years.

Q. What does it mean when an electric utility goes four years without a general rate increase?

A. It means that the earnings of the utility were good enough to pay its bills and satisfy its shareholders. In more technical terms, it means the utility was not under-earning its allowed return on equity.

Q. Is there any other reason why the Commission should not approve a weather normalization rider for Empire?

A. Yes. With the proliferation of available rate adjustment mechanisms, customers' bills have become more complicated and harder to understand. For example, many customers do not understand why the fuel adjustment charge on their bills does not go down when their cost of gas at the gas station goes down. Adding another mechanism when it is not necessary will only add to the customers' confusion regarding their bills.

Additionally, there are many problems with the design of the weather normalization mechanism that Empire is proposing. I have discussed my concerns with Empire and Staff in a conference call and will provide rebuttal testimony to the Commission regarding my concerns.

OPC's Recommended Modifications to Empire's FAC

Q. Would you first summarize the modifications you are proposing to Empire's FAC?

A. I recommend the Commission make the following modifications to Empire's FAC:

1. Modify the incentive mechanism to an 85/15 sharing mechanism where customer exposure is reduced to 85 percent of FAC cost increases and decreases;

2. Include in Empire's FAC certain transmission revenue consistent with transmission costs already included;
3. Order costs and non-capacity related revenues from Empire's contract with the Missouri Joint Municipal Electric Utility Commission ("MJMUEC") to flow through the FAC; and
4. Order Empire to take actions to assure that none of the costs of Empire's wind projects will be included in the FAC resulting from this case.

Q. What is the current incentive mechanism in Empire's FAC?

A. Currently 95 percent of the difference between Empire's actually incurred FAC costs[4] and the normalized FAC costs set in the last rate case (FAC base) is recovered from or returned to customers. The other five percent of actual FAC costs increases or savings as compared to the FAC base is absorbed or retained by Empire. This incentive mechanism is commonly referred to as a 95/5 sharing mechanism.

Q. What changes do you propose for Empire's FAC incentive mechanism?

A. I recommend the Commission order Empire to change its FAC sharing mechanism from a 95/5 sharing, where customers are responsible for 95 percent of the difference between the FAC base set in the rate case and the actual FAC costs incurred, to an 85/15 sharing mechanism reducing customer exposure to 85 percent of FAC cost increases and decreases.

Q. As some background, what do you mean by "FAC costs" and "FAC base"?

A. Simply put, the Commission determines the FAC base from normalized FAC costs in a rate case.

[4] As previously defined in footnote 1, in this testimony FAC costs refers to the fuel, purchased power and transmission costs net of the off-system sales, transmission and other revenues included in the FAC as ordered by the Commission.

More detailed and as defined in footnote 1, FAC costs are the net of the fuel and purchased power related costs and revenues that are included in the FAC. The costs and revenues included in a utility's FAC are determined by the Commission in a general rate case such as this case. FAC costs are included in the cost-of-service used to set permanent rates in the general rate case.

The FAC base is the dollar amount of the FAC costs that are included in permanent rates. The FAC base is divided by the rate case normalized energy usage to determine the FAC base rate. At the end of each biannual accumulation period, the actual energy used by the utility's customers is multiplied by this rate to determine how much of the actual costs have already been recovered from those customers in its permanent rates. The difference between this amount and the actual costs is the amount that is billed or returned to the utility's customers through the FAC rider

A more detailed discussion of the parameters and design of the FAC is included in the whitepaper attached to this testimony as Schedule LMM-D-2.

Q. What would be the impact of changing from the current 95/5 sharing to your recommended 85/15 sharing incentive mechanism?

A. While Empire does not have complete control of the fuel and purchased power costs it incurs, there are actions Empire can take to increase the efficiency of its fuel and purchasing expenditures. Increasing the share of savings/losses for Empire creates a greater incentive for Empire to manage the FAC costs that it incurs and passes on to its customers. It also reduces the likelihood of gamesmanship with the FAC. While a utility may be willing to forgo five percent of the difference between actual FAC costs and the FAC base, it would be less likely to forgo 15 percent.

Q. Do you have an example of when 5 percent was not enough of an incentive for Empire to have an accurate FAC base rate?

A. Yes. In this case, in its suggestions in opposition to OPC's motion to modify the test year Empire filed on January 1, 2020, Empire points out to the Commission that the position Empire is taking with respect to including Asbury costs and revenues in its FAC base would result in an immediate under-recovery of FAC costs. In other words, Empire is recommending the Commission adopt Empire's position regarding Asbury knowing that a consequence of this decision is a five percent under-recovery of costs for Empire.

Q. Would Empire's position regarding the inclusion of Asbury be different if it knew that it would absorb 15 percent of the cost increase instead of five percent?

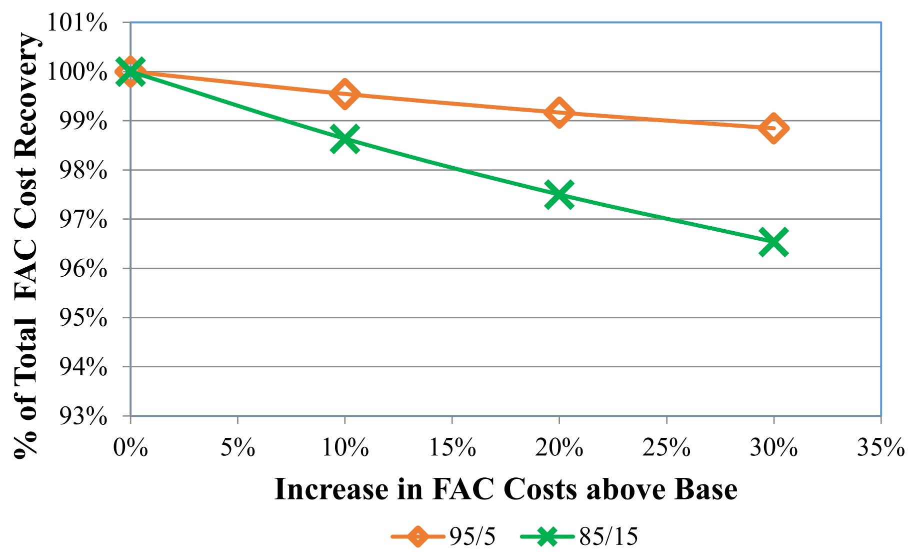
A. I do not know. However, it is obvious that five percent is not enough of an incentive for Empire to support setting the FAC base consistent with the actual fuel costs it expects to be incurring at the time the rates from this case go into effect.

Q. How would changing the sharing mechanism impact the recovery of actual FAC costs?

A. The impact would be different depending on whether the actual FAC costs were below or above the FAC base set in the rate case.

Q. How much of its actual FAC costs would Empire recover if its actual FAC costs are higher than its FAC base costs included in its permanent rates in the rate case?

A. Empire would recover all of the FAC costs included in its permanent rates and *85 percent of the difference* between its actual FAC costs and the base FAC costs included in permanent rates. The graph below shows the percentage of its actual FAC costs Empire would recover if its actual FAC costs increased above the FAC base set in a rate case.



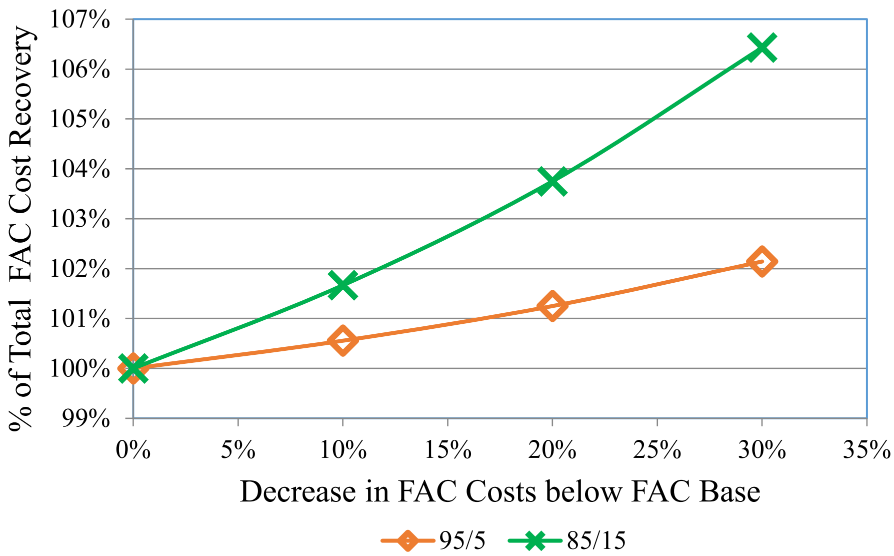
As the graph above demonstrates, with an 85/15 sharing, Empire would still recover over 98.6 percent of its actual FAC costs if its actual FAC costs were 10 percent *over* the base FAC costs. With the current 95/5 sharing, Empire recovers almost 99.6 percent of its actual FAC costs when those costs increase by 10 percent over its FAC base.

Q. What is the dollar impact of a ten percent increase above the FAC base Empire has proposed in this case?

A. If the FAC base was set at the $132 million Empire is proposing and Empire's actual FAC costs were 110 percent of that FAC base or an increase of $13.2 million, Empire would recover $1.2 million less if the sharing incentive mechanism was changed from 95/5 to 85/15.

Q. What would be the impact to Empire of changing the sharing mechanism from 95/5 to 85/15 when its actual FAC costs fall below the FAC base Empire has proposed in this case?

A. When actual FAC costs fall below the FAC base, both sharing mechanisms would result in Empire recovering more than 100 percent of its actual FAC costs. Empire would recover the FAC base set in its rate case through its permanent rates, which in this example would be more than the actual FAC costs, but then only have to return a portion, either 95% or 85%, of the net of its actual FAC costs and FAC base (savings) back to its customers through its FAC creating an earnings opportunity for Empire. As shown in the graph below, an 85/15 sharing would actually allow Empire to have a greater earnings opportunity than the current 95/5 sharing.



This graph shows that when actual FAC costs fall *below* the FAC base set in the rate case, the sharing mechanisms allow Empire to recover from its customers more than 100% of its actual FAC costs. With the current 95/5 sharing, when actual FAC costs fall 10% below the base FAC cost, Empire recovers from its customers 100.6 percent of its actual FAC costs. By changing the sharing to 85/15, Empire would recover from its customers 101.7 percent of its actual FAC costs. While that does not seem to be much of a difference, based on the FAC base Empire is proposing in this case it would result in an additional earnings of over $1.4 million.

Q. How did you determine that an 85/15 sharing is the appropriate sharing mechanism?

A. The public interest is better served by placing an increased incentive on Empire to prudently manage and accurately calculate its normalized fuel costs. The current 95/5 sharing is not enough of an incentive because it still allows Empire to recover virtually all its fuel costs when those costs increase as shown in the graph above. Senate Bill 564, which the Missouri Legislature passed in 2018, includes a provision allowing, upon election by an electric utility, plant in-service accounting ("PISA"), but it only allows 85% of the depreciation expense and return associated with qualifying plant to be included for recovery in the electric utility's rate base in its next general rate case.[5] The Legislature's selection of an 85/15 incentive mechanism for PISA provides a more reasonable alternative to the 95/5 incentive mechanism previously adopted by the Commission for Empire's FAC.

Q. How is this statute that pertains to plant in-service accounting relevant to the FAC?

A. This statute defines the incentive the legislators believe would protect ratepayers' interests. As the Commission found in its *Report and Order* in File No. EA-2018-0202:

> When Senate Bill 564 was initially introduced, it required all depreciation expense and associated return to be deferred. The eighty-five percent limitation was added to the legislation by the General Assembly during the legislative process. [6]

Further, the Commission stated in its Decision in that same *Report and Order* "the eighty-five percent limitation on the utility's ability to defer costs is likely a

[5] Section 393.1400 RSMo.

[6] EA-2018-0202, *In the Matter of the Application of Union Electric Company d/b/a Ameren Missouri for Permission and Approval and a Certificate of Convenience and Necessity Authorizing it to Construct a Wind Generation Facility*, Findings of Fact, page 6, paragraph 8.

legislative compromise intended to maintain some regulatory lag to protect ratepayer interests."[7]

Q. Is there similar language identifying an incentive mechanism in the statute that enables the Commission to authorize an electric utility to use a FAC?

A. No. The enabling statute for the FAC, passed more than a decade before the PISA statute, includes a provision allowing an incentive-based plan approved by the Commission.[8] However, this provision does not define the incentive. It was left for the Commission's determination.

Q. Is the 85/15 incentive mechanism you are proposing for Empire's FAC the same as the 85/15 mechanism in the PISA statute?

A. While the sharing percentages are the same there would be a notable difference with the application of the percentages. The PISA 85/15 sharing mechanism applies only to cost increases. As previously described, the FAC 85/15 sharing mechanism would apply to both costs increases and decreases, and would result in additional earnings for Empire when its actual FAC costs fall below the base set in the rate case. The additional earnings to Empire under an 85/15 sharing when fuel and purchased power costs decrease would work as an *incentive* for Empire to seek reductions in its fuel and purchased power costs.

Q. The next modification that you listed is the addition of some transmission revenues to Empire's FAC. Do you agree with Empire witness Aaron Doll who provided in his supplemental direct testimony that all transmission costs and revenues should be included in Empire's FAC?

A. No. Even though Mr. Doll's testimony reads as if OPC agrees with Empire with respect to transmission costs and revenues, OPC does not agree with Empire's

[7] Page 10.
[8] Section 386.266.8 RSMo.

request that 100 percent of all transmission costs and revenues should be included in Empire's FAC. However, I do agree that some transmission revenues should be in Empire's FAC, but at a percentage calculated consistent with prior Commission orders.

Q. Why should transmission revenues be included in Empire's FAC?

A. Empire receives revenues under the same SPP schedules for which it is assessed charges. It also receives revenue from MISO for reactive power.[9] For consistency, the costs should be offset by the revenues also received for that service.

Q. What is the percentage based on?

A. The Commission's order in case no. ER-2014-0351 provides that:

> [T]he costs Empire incurs related to transmission that are appropriate for the FAC, from a policy perspective and by statute are:
>
> 1) costs to transmit electric power it did not generate to its own load ("true purchased power"); and,
>
> 2) costs to transmit excess electric power it is selling to third parties to locations outside of SPP ("Off-system sales").[10]

In that case, the Commission determined that 34 percent of Empire's SPP transmission and 50 percent of its MISO transmission costs should flow through its FAC. In the last Empire general rate case, ER-2016-0023, the parties entered into a stipulation and agreement to continue to use those percentages.[11] Currently 34 percent of SPP costs associated with network transmission service[12] and 50 percent of MISO costs[13] are included in Empire's FAC.

[9] Supplemental direct testimony of Empire witness Aaron Doll, page 3, lines 19-20.
[10] *Report and Order*, page 28.
[11] ER-2016-0023, *Stipulation and Agreement,* pages 8 and 9, filed on June 20, 2016.
[12] SPP Schedules 2, 3, and 11.
[13] Network transmission service; point-to-point transmission service; system control and dispatch; and reactive supply and voltage control.

I recommend that the transmission costs identified by SPP Schedule and MISO cost type currently included in Empire's FAC remain the same and that any revenues associated with the same SPP schedules and MISO costs be included in Empire's FAC. The percentage of those costs and revenues included should be modified to match the circumstances that will be impacting the transmission costs and revenues when rates from this case become effective.

Q. What should be the percentages of transmission costs and revenues that the Commission should allow in Empire's FAC?

A. The percentage of SPP transmission costs and revenues that would be included on a going forward basis should be determined from a fuel run model that does not include the Asbury plant.[14] However, if the fuel run that is used to determine this percentage includes Asbury and the Commission allows increased costs from the retirement of Asbury to be tracked for potential future recovery from customers, I recommend any transmission costs not recovered through the FAC not be included as a costs for potential recovery in the next case.

If the contract with Missouri Joint Municipal Electric Utility Commission ("MJMEUC") is treated as recommended in this testimony, the percentage of MISO transmission costs and revenues should remain at 50 percent.

Q. What is the MJMEUC contract?

A. Empire witness Sheri Richard, in her corrected direct testimony in this case, discusses the ending of a 10-year contract with three wholesale customers in May 2020 and provides a vague description of an agreement Empire entered into to sell capacity and energy to a new customer beginning in June of 2020.[15] This agreement is a purchased power agreement ("PPA") between Empire and

[14] Excluding Asbury will result in a higher percentage but is consistent with OPC's position that costs affected by the Asbury retirement should be considered in this case.
[15] Page 27, line 18 through page 28 line 9.

MJMEUC. While I am not an attorney, my understanding from reading this contract is that it is a ***

*** A copy of this contract obtained from Empire in response to OPC data request 8004.1 is attached to this testimony as Schedule LMM-D-3 HC.

Q. Since this contract is effective outside the true-up period of this rate case, why are you testifying about it now?

A. The FAC is prospective in nature. The FAC is more than just a base FAC amount. It is the boundaries and customer protections of the FAC that are in effect until Empire's next general rate increase case. The FAC applies to PPAs that Empire enters into for both the purchase and sale of energy between cases. The Commission-approved FAC in this case will determine how this PPA is treated in June of 2020, through the effective date of rates in the next Empire general rate case.

Q. What is your recommendation for how the Commission should treat the MJMEUC contract?

A. I recommend Empire follow the FAC language that has been in effect and that it has proposed in this case. All current FAC non-labor costs including but not limited to fuel and transmission costs for these resources should continue to flow through the FAC. All revenues provided to Empire from MJMEUC, except for the revenue provided for capacity,[16] should also be included in the FAC. For transparency as to the prudency of this PPA, the Commission should require, as a part of the monthly FAC report required to be submitted by Empire, a detailed listing of the costs incurred due to the contracts and the revenues that Empire receives. The detailed listing should differentiate between the costs and revenues that are in the FAC and those that are outside of the FAC.

Q. Should the Commission's allowance of Empire's costs and revenues from this PPA to flow through its FAC be a signal that this contract is prudent for Empire?

A. No. This PPA should be reviewed to determine prudency in the first FAC prudence audit where Empire's costs and revenues from this PPA are included.

Q. What is your concern regarding Empire's wind projects and Empire's FAC?

A. I am concerned that some costs of the wind projects may be charged to Empire's customers through its FAC prior to Empire's next general electric rate case.

Q. Why do you have that concern?

A. An important part of the wind project financial feasibility is Empire's payment to the wind holding companies of hedges for each MWh of energy generated. Empire believes there will be some energy generated from these wind projects prior to its next general electric rate case, and its witness Aaron Doll has prefiled direct testimony in which he requests language be included in Empire's FAC to assure that SPP revenues for this energy does not pass through to Empire's customers prior to Empire starting to recover its investment in the wind projects through retail

[16] This is consistent with the current FAC. Only capacity revenues from contracts of less than a year flow through the FAC.

rates.[17] In its response to OPC data request 1318 in Case No. EO-2018-0092[18] provided on April 30, 2018, Empire stated that it anticipated that the net cost/revenue of the hedge would be recorded in Federal Energy Regulatory Commission ("FERC") account 555 Purchased Power. Empire's proposed FAC tariff sheets include purchased power costs included in FERC account 555.

In this case, Case No. ER-2019-0374, OPC again asked in its data request 8049 how Empire intended to account for the hedging costs. In response to that data request, Empire stated that it has not determined how it will account for the costs that are incurred due to the hedge agreement.

Since Empire does not seem to know yet how these costs will be treated, I want an assurance that no costs, including hedging costs, pass through Empire's FAC to its customers before Empire's next general electric rate case.

Q. You testified that Empire prefiled testimony by which it is requesting FAC language to keep any SPP revenues from the wind projects from flowing through its FAC. Did it request any similar language regarding wind project costs?

A. No. Empire did not propose such language in its direct or supplemental direct testimony. Once I learned that Empire had entered into a hedge agreement for one of the wind projects, I asked Empire, in OPC data request 8049, to provide a description of Empire's policies and procedures to prevent Empire's hedging costs from flowing through the FAC. Empire objected to this data request but provided the following in response the request for policies and procedures:

> With regard to the change being requested in this case, the proposed revision explained in the Direct Testimony of Aaron Doll adds language further defining what is included in OSSR. In the Company's current FAC Tariff, OSSR is defined as "Revenue from Off-System Sales (Excluding revenue from full and partial

[17] Direct testimony of Aaron Doll, pages 2-4.
[18] *In the Matter of the Application of The Empire District Electric Company for Approval of Its Customer Savings Plan*

> requirements sales to municipalities).” Future generation projects, such as the wind projects, will produce sales before the inclusion in rates of the associated generation costs. Therefore, in order to provide for equitable treatment of revenue (including hedge revenues/costs) in such situations, the Company has proposed to modify the definition of OSSR to only include sales revenue received from generation projects that have been declared Commercially Operational and are being recovered through customer rates. The current rate case does not address how hedge costs and revenues will flow through the FAC as this will be addressed in a future rate case. As described in testimony in Case No. EA-2019-0010, it is Empire’s intent for the hedge results to have no impact on customer rates.

Q. Is assurance that it is “Empire’s intent” for the hedge costs to have no impact on customer rates sufficient for you?

A. No. Intent can change over time. This is why OPC is recommending the Commission order that no hedging or other costs of the wind projects be allowed to be recovered through the FAC prior to the effective date of the rates in Empire’s next rate case.

Q. Are you aware of any language in Empire’s proposed FAC tariff sheets that Empire could possibly use to pass the hedging costs from these wind projects to its customers through its FAC?

A. Yes. Schedule AJD-1 attached to the direct testimony of Empire witness Doll provides Empire’s proposed FAC tariff sheets. These sheets allow hedging costs recorded in Federal Energy Regulatory Commission (“FERC”) accounts 501, 506, 547, 548, 509, 411 and 447 to be included in Empire’s FAC. The proposed tariff sheets include on page 6 of 9 of this schedule the following definition of hedging costs:[19]

> Hedging costs are defined as realized losses and costs (including broker commission fees and margins) minus realized gains associated with mitigating volatility in the Company’s cost of fuel,

[19] This is identical to language that is in Empire’s current FAC.

> fuel additives, fuel transportation, emission allowances and purchased power costs, *including but not limited to*, the Company's use of derivatives whether over-the-counter or exchanged traded including, without limitation, futures or forward contracts, puts, calls, caps, floors, collars and swaps. (emphasis added)

With this broad definition, the wind hedging costs could be included in the FAC prior to Empire's next rate case and the parties would have no recourse to say that it was imprudent for the costs to flow through Empire's FAC. A Commission order excluding both wind project revenues and costs from the FAC prior to the next rate case would ensure the company and customers are both treated fairly and equally.

Q. What is your recommendation to the Commission regarding the costs of the wind projects and Empire's FAC?

A. Because there may be other instances in Empire's FAC tariff sheets other than the hedging language identified above that could allow costs from the wind projects to pass through Empire's FAC, I recommend the Commission order Empire to:

1) Not pass any direct or indirect costs connected with the wind projects through its FAC until a Commission order expressly allows it;
2) Develop policies and procedures to prevent wind project costs from being included in its FAC until a Commission order expressly allows it;
3) Submit this policy and detailed documentation of the procedures it has developed to the Commission Staff and OPC by September 1, 2020; and
4) Include language in its FAC tariff sheet explicitly stating no costs associated with the wind projects shall pass through its FAC.

<u>Adjustment for Asbury Power Plant Retirement</u>

Q. What is Empire's Asbury Power Plant?

A. Asbury is an approximately 200 MW cyclone steam generator commissioned in 1970 that is located in Jasper County near Asbury, Missouri. Empire is the sole owner of Asbury. Empire burns a blend of low-sulfur Wyoming coal and local bituminous coal at Asbury. In 2014 Empire retrofitted Asbury with an air quality control system ("AQCS"). That retrofit extended the expected retirement date of the plant at that time from 2030 to June 2035.

In its fuel model run for this rate case, Empire estimated that, on a normalized basis, Asbury provides approximately 18.5 percent of Empire's total generation provided to SPP. Empire's fuel runs showed that only Empire's Riverton 12 combined cycle plant would, on a normalized basis, provide more generation than Asbury.

Q. When does Empire plan to retire Asbury?

A. On December 29, 2019, Empire stated in its response to OPC's motion to modify the test year that it is retiring Asbury on March 1, 2020.[20]

Q. You stated earlier that based on its fuel run, on a normalized basis, Empire estimated that Asbury would provide Empire with approximately 18.5 percent of Empire's total generation. What impact does running Asbury have on Empire's test year fuel costs?

A. Based on a supplemental direct workpaper from Empire's witness Aaron Doll, Empire's fuel costs for Asbury in this case are:[21]

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[20] *Empire's Response to Public Counsel's Motion to Modify Test Year,* paragraph 5.
[21] Aaron Doll supplemental direct workpaper "AD Supp Direct 2019 MO Rate Case Model Output – Finalv3 – Confidential," tab "Costs."

Q. Will Empire's fuel costs decrease after Empire retires Asbury on March 1, 2020?

A. Yes. However, it is not only the costs of generating electricity at Asbury that will decrease. Revenues from SPP for sales of electricity that Asbury generates will decrease as well. Empire's test year fuel model results included an estimate that Asbury would generate revenues of ** ** from the SPP energy market. In Empire's test year fuel run, those revenues exceed the fuel costs of running Asbury, *i.e.*, they result in a positive margin to Empire from Asbury during the test year.

Q. How does retiring Asbury impact the FAC costs that Empire included in its revised direct case?

A. Because of the complex interactions between fuel costs, market prices, and forced outages, the best way to get an estimate would be to do a fuel model run that does not include Asbury. Since I do not have the ability to do such a fuel run I used Aaron Doll's workpapers[22] to estimate that retiring Asbury would cause Empire's total annual fuel costs to increase by approximately $1.3 million. In turn, using Empire's FAC base rate of $24.16 per megawatt-hour ("MWh") that Aaron Doll provides in his supplemental direct testimony as the starting point, removing the my estimated impacts of Asbury from Empire's FAC would increase its FAC base rate by $0.24/MWh to $24.40/MWh.

Q. Would not this approximately $1.3 million net increase in Empire's fuel cost also affect Empire's total revenue requirement that the Commission uses for setting retail rates in this case?

A. Yes, and it is important that the same net fuel costs that are used for setting Empire's permanent rates are used in setting its FAC base rate.

[22] These workpapers were provided eleven days after Empire prefiled Aaron Doll's supplemental direct testimony without seeking or obtaining Commission authorization or even the OPC's consent to file that supplemental testimony.

Q. What would be the impact of removing Asbury costs and revenues in setting the FAC base but not the total revenue requirement?

A. If the costs used to set the FAC base are greater than the costs used to set revenue requirement, the customers will be billed less than the actual FAC costs incurred. A more detailed explanation with examples can be found in the whitepaper attached to this testimony beginning on page 15.

Q. What happens to Empire's FAC charges after Empire retires Asbury on March 1, 2020, if the FAC base and total revenue requirement include normalized Asbury costs and revenues?

A. After Asbury is shut down, Empire will neither incur fuel costs nor receive SPP revenues for Asbury. Therefore, Empire's first FAC rate change after its new rates from this case go into effect will result in its customers' having higher FAC charges than they otherwise would have been if Empire's normalized Asbury FAC costs had not been included in setting its FAC base rate. Based on the current FAC sharing of 95/5, Empire would bill its customers approximately $1.23 million more a year in FAC costs due to this mismatch (95 percent of the $1.3 million increase in FAC costs).[23]

Q. What happens to Empire's FAC charges after Empire retires Asbury on March 1, 2020, if the FAC base and total revenue requirement excludes normalized Asbury costs and revenues?

A. The increased FAC costs of not running Asbury is already included in the permanent rates so, there is no impact on the FAC rate. However, the customers would be billed the full $1.3 million in permanent rates.

[23] If the Commission adopts OPC's recommendation regarding a change in the sharing mechanism to 85/15, the increase in FAC costs would be approximately $1.1 million.

Q. If Empire's customers will pay less than all of Empire's actual FAC cost increase due to this mismatch, why are you recommending that Empire's FAC base rate be determined without including Empire's costs and revenues from Asbury?

A. Empire is retiring Asbury on March 1, 2020, well in advance of when the Commission will approve new tariff sheets for Empire in this case with new retail rates—likely in July of 2020. As a known and measurable event occurring well before new rates in this case, the impacts of Asbury's retirement should be consistently included in Empire's base rates and FAC for those prospective new rates. I know of no practical reason why the parties and the Commission cannot treat Asbury as retired for purposes of setting rates Empire's retail rates in this case. It seems to me that not including known costs in this case is more accurate than tracking costs that were not incurred for potentially returning to the customers in the next rate case.

While Empire's customers would ultimately pay less due to the sharing mechanism of the FAC, it is OPC's position that the retirement of Asbury be included in this case. My recommendation that no costs or revenues associated with Asbury be included in setting Empire's FAC base rate is consistent with the OPC's recommendation that no costs or revenues associated with Asbury be included in Empire's revenue requirement the Commission uses to set Empire's rates in this case.

Q. So, are you recommending that Empire's FAC costs for Asbury not be included when setting the base rate in Empire's FAC and that they also not be included in Empire's revenue requirement the Commission uses to set Empire's rates in this case?

A. Yes. In addition to me, OPC witnesses Dr. Geoff Marke and John Robinett testify to the OPC's position to exclude costs and SPP revenues associated with Asbury when the Commission determines Empire's FAC base rate and Empire's revenue requirement.

Q. What is your recommendation to the Commission if it includes Empire's costs and revenues for Asbury when setting Empire's rates in this rate case?

A. If the Commission sets Empire's rates based on Asbury being operational, the Commission should not include as one of the retirement costs tracked any of the costs of Asbury that Empire does not recover through its FAC. Empire is choosing to include Asbury in its FAC costs knowing this cost will be wrong and Empire will not be recovering 5 percent of the increased cost even before the new rates go into effect.

Q. Does this conclude your direct testimony?

A. Yes.